IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

FRIDAY, THE 30TH MARCH 2007 / 9TH CHAITHRA 1929

CRL.A.No. 45 of 2006(B)

CC.566/2003 of JUDL.MAGISTRATE OF FIRST CLASS COURT, TALIPARAMBA

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APPELLANT: COMPLAINANT:

AMMANKOL KUNHAMBU, AMMANKOVIL HOUSE,
PUZHAKULANGARA, TALIPARAMBA AMSOM DESOM,
P.O. TALIPARAMBA, DISTRICT KANNUR.

BY ADV. SMT.VIDHYA. A.C

RESPONDENTS: ACCUSED:

T.E. SOMASEKHARAN,
ISHRAYA FLOOR MILL, KANHIRANGAD,
P.O. KANHIRANGAD, TALIPARAMBA TALUK,
DISTRICT KANNUR.

BY ADV. SRI.SERGI JOSEPH THOMAS
PUBLIC PROSECUTOR SRI.THOMAS JOHN AMBOOKEN.

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 30/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.M. JAMES, J.

Criminal Appeal No. 45 of 2006

Dated this the 30th March, 2007.

J U D G M E N T

The complainant in C.C.No.566 of 2003, on the file of the Judicial First Class Magistrate Court, Taliparamba, is the appellant. The complaint preferred by him under Section 138 of the Negotiable Instruments Act, was dismissed, due to the absence of the complainant, and the accused acquitted. Hence this appeal on obtaining leave of this Court.

2. When the case was taken up before the court below on 28.9.2005, the complainant could not be present, as the uncle of the complainant's daughter in law died at Thrikkaripur, and was attending the funeral. However, he was attempting to return to the court. Meanwhile, the complaint was dismissed.

3. I have heard the arguments advanced by the learned counsel appearing for the appellant, as well as the counsel for the respondent, accused.

4. Considering the circumstances of the case and the facts that are pleaded,as well as submitted, I set aside the impugned order, dated 28.9.2005, and restore C.C.No.566/2003 to the file of the Judicial First Class Magistrate Court, Taliparamba.

5. The parties shall appear before the court below on 8.5.2007.

6. The learned Magistrate shall dispose of the case, at the earliest, and in any case, within five months from the date of appearance of the parties, as per the law.

Criminal Appeal is allowed as above.

J.M. JAMES,
JUDGE

nj.